

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

Application 26671 Permit 18569 License

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT**

WHEREAS:

1. Permit 18569 was issued to County Service Area No. 6, Jones Valley, on August 19, 1982 pursuant to Application 26671.
2. A petition for an extension of time within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board (SWRCB).
3. The permittee has proceeded with diligence and good cause has been shown for said extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 7 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 2006

(0000009)

2. Condition 10 of the permit, pertaining to the continuing authority of the SWRCB, should be updated to conform to Section 780(a), Title 23 of the California Code of Regulations.

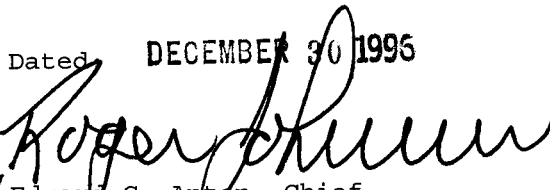
Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph

unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

Dated **DECEMBER 30 1996**


70 Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 26671

PERMIT 18569

LICENSE _____

ORDER CORRECTING THE SEASON IN
THE ORDER ISSUED JULY 3, 1984

WHEREAS:

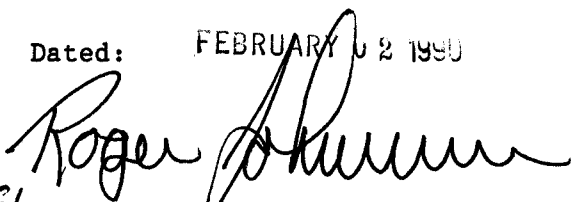
1. Permit 18569 was issued to Shasta County Service Area No. 6 Jones Valley on August 19, 1982.
2. An Order was issued on July 3, 1984 approving a change in the season of diversion and a change in the permits terms in compliance with Board Decision 1594 and Board Order WR 84-2 amending Decision 1594.
3. The Order issued on July 3, 1984 incorrectly described the changed season as "Direct Diversion January 1 to June 15". The Order should have described the season as "Direct Diversion January 1 to June 15 and September 1 to December 31".

NOW, THEREFORE, IT IS ORDERED:

1. The season of diversion is amended to read as follows:

Direct Diversion January 1 to June 15 and September 1 to December 31.
2. All other terms of the Order issued July 3, 1984 remain in effect.

Dated: FEBRUARY 2 1990


Walter G. Bettit, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 26671

PERMIT 18569

LICENSE _____

ORDER APPROVING A CHANGE IN SEASON OF
DIVERSION AND A CHANGE IN PERMIT TERMS

WHEREAS:

1. Decision 1594 was adopted by the State Water Resources Control Board on November 17, 1983.
2. Order WR 84-2 Amending Decision 1594 was adopted by the State Water Resources Control Board on February 1, 1984.
3. The Decision and the Order set forth changes to be made in permits containing Standard Water Right Permit Term 80.

NOW, THEREFORE, IT IS ORDERED:

1. The season of diversion is amended to read as follows:

Direct Diversion January 1 to June 15

2. Standard Water Right Permit Term 80 is deleted from the permit.

Standard Water Right Permit Term 80 is worded as one of the following:

"The State Water Resources Control Board reserves jurisdiction over this permit for the purpose of conforming the season of diversion to later findings of the Board on prior applications involving water in the Sacramento River Basin and Delta. Action by the Board will be taken only after notice to interested parties and opportunity for hearing."

or

"The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to the results of a comprehensive analysis of the availability of unappropriated water in the [name of river basin or watershed]. Action to change the season of diversion will be taken only after notice to interested parties and opportunity for hearing."

3. Standard Water Right Permit Term 91 is deleted from the permit.


Standard Water Right Permit Term 91 reads as follows:

"No diversion is authorized by this permit when satisfaction of inbasin entitlements requires release of supplemental Project water by the Central Valley Project or the State Water Project.

- a. Inbasin entitlements are defined as rights to divert water from streams tributary to the Sacramento-San Joaquin Delta or the Delta for use within the respective basins of origin or the Legal Delta, unavoidable natural requirements for riparian habitat and conveyance losses, and flows required by the Board for maintenance of water quality and fish and wildlife. Export diversions and Project carriage water are specifically excluded from the definition of inbasin entitlements.
- b. Supplemental Project water is defined as water imported to the basin by the Projects, and water released from Project storage, which is in excess of export diversions, Project carriage water, and Project inbasin deliveries.

"The Board shall notify the permittee of curtailment of diversion under this term after it finds that supplemental Project water has been released or will be released. The Board will advise the permittee of the probability of imminent curtailment of diversion as far in advance as practicable based on anticipated requirements for supplemental Project water provided by the Project operators."

Dated: JULY 3 1984


Raymond Walsh, Chief
Division of Water Rights

P18569.

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Permitted)
Application 26671)
COUNTY OF SHASTA - COUNTY)
SERVICE AREA NO. 6,)
Permittee)
U. S. BUREAU OF RECLAMATION,)
Petitioner)

Order: 82- 11
Source: Pit River Arm of
Shasta Lake
County: Shasta

ORDER DENYING PETITION FOR RECONSIDERATION

BY THE BOARD:

Application 26671 having been approved by operation of law under Government Code Section 65956 on January 1, 1982; Permit 18569 having been issued on August 19, 1982; the Board having received a petition for reconsideration of issuance of Permit 18569 filed on August 31, 1982 by the U. S. Bureau of Reclamation; the petition having been duly considered; the Board finds as follows:

Substance of Permit 18569 (Application 26671)

1. Permit 18569 authorizes diversion of 0.7 cubic feet per second from the Pit River Arm of Shasta Lake to be diverted from January 1 to June 30 and from September 1 to December 30 of each year for municipal use within Shasta County Service Area No. 6 referred to as Jones Valley.

Substance of Petition for Reconsideration

2. Petitioner contends that issuance of Permit No. 18569 "is not supported by any evidence before the Board". Petitioner requests that the Board reconsider issuance of the permit and deny the permit or, in the alternative, that the Board rescind the permit and consolidate consideration of Application 26671 with consideration of similar applications currently pending before the Board.

3. Petitioner's statement in support of the petition further alleges:

(a) There is no water available for appropriation under Permit 18569.

(b) Issuance of Permit 18569 confers Central Valley Project benefits upon the permittee without charge and is therefore in violation of Federal Reclamation Law.

(c) Issuance of the permit is inconsistent with past Board decisions.

Discussion

4. Application 26671 was filed on December 23, 1980. The application was completed and notice was issued on June 30, 1981. Notice was provided to the petitioner by certified mail. No protests were filed against the application. In accordance with the provisions of Government Code Section 65956, the application was deemed approved by operation of law on January 1, 1982 since it was not protested and had not been acted upon within 180 days of the time it was complete.

5. Permit 18569 was issued on August 19, 1982. In accordance with Section 761(c) of Title 23, California Administrative Code, Permit 18569 contains all applicable standard permit terms and the authorized season of diversion is consistent with past decisions of the Board concerning the availability of unappropriated water upstream from Shasta Dam.

6. The stated intention of Chapter 4.5 (commencing with Section 65920), Division 1, Title 7 of the Government Code is to expedite public agency decisions on development projects (Government Code Section 65921). Government Code Section 65952 provides that responsible agencies shall approve or disapprove a project within 180 days from the date the lead agency has approved or disapproved the project

project or within 180 days after which the completed application for the project has been received and accepted as complete, whichever is later. Section 65956(c) provides that failure to act to approve or disapprove a project within the applicable time limit shall be deemed approval of the project. Protested water rights applications are exempt from the 180 day time limit under Government Code Section 65955.

7. The petitioner received notice of the application yet elected not to file a protest. Neither the petition for reconsideration nor the statement submitted in support of the petition explain why a protest was not filed within the protest period specified by Water Code Section 1302. For the Board to reconsider approval of Application 26671 under such circumstances would be clearly contrary to the policy of expediting the regulatory process as established by Chapter 4.5, Division 1, Title 7 of the Government Code.

8. Granting a petition for reconsideration by a party who received notice yet elected not to file a protest would be the equivalent of extending the protest period to a time after the permit is issued. Although Water Code Section 1330 authorizes the Board to accept late protests upon a showing of good cause, there must be some reasonable limit on the protest period. In this instance, the petitioner offers no explanation for the failure to file a protest, yet seeks reconsideration after the permit has been issued. For the Board to grant the petition for reconsideration would effectively extend the protest period to 30 days after a permit has been issued. Such a policy would seriously undermine the administrative process governing water rights applications.

9. Permit 18569 authorizes diversion of a reasonable amount of water to be applied to a reasonable and beneficial use. The season of diversion authorized by the permit excludes July and August and is therefore

consistent with past Board findings regarding the season of availability of unappropriated water upstream of Shasta Dam. In Decision 990, the Bureau's water rights at Shasta Dam were made "subject to depletion of stream flow above Shasta Dam by the exercise of lawful rights to the use of water for the purpose of development of the counties in which the water originates, whether such rights have heretofore or may be hereafter initiated or acquired ..." (Decision 990, page 84, emphasis added). The maximum upstream depletion allowed by Decision 990 is 700,000 acre-feet in any one year or 4,500,000 acre-feet in any consecutive ten-year period. These maximum limits on upstream diversions under the county of origin protections of Decision 990 are not exceeded by issuance of Permit 18569.

10. The petitioner alleges that issuance of Permit 18569 is not supported by any evidence before the Board. No hearing was conducted on the matter since the application was not protested and was deemed approved by operation of law. However, the information set forth in Paragraph 9 above establishes that the Board's files contain evidence supporting issuance of Permit 18569.

11. Issuance of Permit 18569 is not inconsistent with Decision 893 which denied several competing applications for diversion of water at Folsom Dam and Nimbus Dam due to lack of access by the applicants and due to potential administrative confusion. The point of diversion specified in Permit 18569 is on the Pit River Arm of Shasta Lake, not at the dam itself. Therefore, the type of administrative difficulties referred to in Decision 893 are not involved in this instance. The permittee has submitted a copy of a special use permit from the U. S. Forest Service granting access to the point of diversion specified in the permit. Although the petitioner disputes the permittee's right of access, the Board is not the proper

forum for resolving such a dispute. (23 California Administrative Code, Section 749). Consistent with past Board practice, the permit which was issued states that it should not be construed as conferring upon the permittee the right of access to the point of diversion.

12. In view of the findings above, it is not necessary to consider the other points raised in the petitioner's Statement in Support of Petition for Reconsideration. Those issues are likely to be raised in future proceedings before the Board involving applications against which the petitioner has filed written protests.


Conclusion

12. The Board concludes that it would be improper to reconsider issuance of Permit 18569.

ORDER

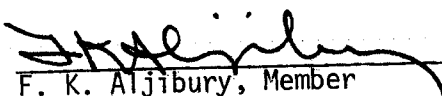
NOW, THEREFORE, IT IS ORDERED that the petition for reconsideration of Permit 18569 is denied.

Dated: October 21, 1982


Carol A. Onorato, Chairwoman


L. L. Mitchell, Vice Chairman


Jill D. Golis, Member


F. K. Aljibury, Member


Warren D. Noteware, Member

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 18569

Application 26671 of Shasta County Service Area No. 6 - Jones Valley
1855 Placer Street, Redding, California 96001

filed on December 23, 1980, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Pit River Arm of Shasta Lake

Sacramento River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
North 950 feet and West 1,200 feet from SE corner of Section 31	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	31	34N	3W	MD

County of Shasta

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
Municipal	Within County Service Area No. 6 - Jones Valley Within:					
	SW $\frac{1}{4}$	8	33N	3W	MD	
		17	33N	3W	MD	
	SE $\frac{1}{4}$	18	33N	3W	MD	
	N $\frac{1}{2}$ of NE $\frac{1}{4}$	20	33N	3W	MD	

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.7 cubic foot per second to be diverted from January 1 to June 30 and from September 1 to December 31 of each year. The maximum amount diverted under this permit shall not exceed 350 acre-feet per year. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Complete application of the water to the authorized use shall be made by December 1, 1991. (0000009)

8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

9. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

10. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable methods of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation. (0000012)

11. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

12. Permittee shall consult with the Division of Water Rights and the Department of Water Resources and develop and implement a water conservation program or actions. A progress report on development of the program shall be submitted to the Board within 6 months. The program or proposed actions shall be presented to the Board for approval within one year from the date of this order or such further time as may, for good cause shown, be allowed by the Board. (0000029)

13. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to the results of a comprehensive analysis of the availability of unappropriated water in the Sacramento River Basin. Action to change the season of diversion will be taken only after notice to interested parties and opportunity for hearing. Deleted (0000080)

14. This permit is subject to prior rights. Permittee is put on notice that during some years water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Sacramento River Basin are such that in any year of water scarcity the season of diversion authorized herein may be reduced or completely eliminated on order of this Board made after notice to interested parties and opportunity for hearing.

(0000090)

15. No diversion is authorized by this permit when satisfaction of inbasin entitlements requires release of supplemental Project water by the Central Valley Project or the State Water Project.

- A. Inbasin entitlements are defined as all rights to divert water from streams tributary to the Sacramento-San Joaquin Delta or the Delta for use within the respective basins of origin or the Legal Delta, unavoidable natural requirements for riparian habitat and conveyance losses, and flows required by the Board for maintenance of water quality and fish and wildlife. Export diversions and Project carriage water are specifically excluded from the definition of inbasin entitlements.
- B. Supplemental Project water is defined as water imported to the basin by the projects, and water released from Project storage, which is in excess of export diversions, Project carriage water, and Project inbasin deliveries.

The Board shall notify the permittee of curtailment of diversion under this term after it finds that supplemental Project water has been released or will be released. The Board will advise the permittee of the probability of imminent curtailment of diversion as far in advance as practicable based on anticipated requirements for supplemental Project water provided by the Project operators.

Deleted

0000091

16. This permit shall not be construed as conferring upon the permittee right of access to the point of diversion.

(0000022)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated:

AUGUST 19 1982

STATE WATER RESOURCES CONTROL BOARD

L. D. Johnson
for Chief, Division of Water Rights